



House of Commons
Committee on
Standards and Privileges

Dual Reporting and Revised Guide to the Rules

Fourth Report of Session 2008-09



House of Commons
Committee on
Standards and Privileges

**Dual Reporting and
Revised Guide to the
Rules**

Fourth Report of Session 2008-09

*Report and Annex, together with formal
minutes*

*Ordered by The House of Commons
to be printed 27 January 2009*

The Committee on Standards and Privileges

The Committee on Standards and Privileges is appointed by the House of Commons to oversee the work of the Parliamentary Commissioner for Standards; to examine the arrangements proposed by the Commissioner for the compilation, maintenance and accessibility of the Register of Members' Interests and any other registers of interest established by the House; to review from time to time the form and content of those registers; to consider any specific complaints made in relation to the registering or declaring of interests referred to it by the Commissioner; to consider any matter relating to the conduct of Members, including specific complaints in relation to alleged breaches in the Code of Conduct which have been drawn to the Committee's attention by the Commissioner; and to recommend any modifications to the Code of Conduct as may from time to time appear to be necessary.

Current membership

Rt Hon Sir George Young Bt MP (*Conservative, North West Hampshire*)
(*Chairman*)

Rt Hon Kevin Barron MP (*Labour, Rother Valley*)

Rt Hon David Curry MP (*Conservative, Skipton & Ripon*)

Mr Andrew Dismore MP (*Labour, Hendon*)

Nick Harvey MP (*Liberal Democrat, North Devon*)

Mr Elfyn Llwyd MP (*Plaid Cymru, Meirionnydd Nant Conwy*)

Mr Chris Mullin MP (*Labour, Sunderland South*)

The Hon Nicholas Soames MP (*Conservative, Mid Sussex*)

Mr Paddy Tipping MP (*Labour, Sherwood*)

Dr Alan Whitehead MP (*Labour, Southampton Test*)

Powers

The constitution and powers of the Committee are set out in Standing Order No. 149. In particular, the Committee has power to order the attendance of any Member of Parliament before the committee and to require that specific documents or records in the possession of a Member relating to its inquiries, or to the inquiries of the Commissioner, be laid before the Committee. The Committee has power to refuse to allow its public proceedings to be broadcast. The Law Officers, if they are Members of Parliament, may attend and take part in the Committee's proceedings, but may not vote.

Publications

The Reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee (including press notices) are on the Internet at: www.parliament.uk/sandp.

Committee staff

The current staff of the Committee are Mr Steve Priestley (Clerk), Mrs Sarah Hartwell-Naguib (Second Clerk) and Ms Jane Cooper (Committee Assistant).

Contacts

All correspondence should be addressed to The Clerk of the Committee on Standards and Privileges, Journal Office, House of Commons, London SW1A 0AA. The telephone number for general enquiries is 020 7219 6615.

Contents

Report	<i>Page</i>
Dual Reporting and Revised Guide to the Rules	3
Introduction	3
Ending dual reporting	3
<i>Members standing for elective office outside Parliament</i>	4
Changes necessary to the Rules in order to end dual reporting	5
<i>Changes to the information that Members provide to the Registrar</i>	5
<i>Changes to thresholds and to time limits</i>	5
<i>Other necessary changes</i>	6
Other proposed changes to the Rules	7
<i>Changes proposed in 2005-06</i>	7
<i>Title of Register</i>	7
<i>Transitional provisions and provisions of historical interest</i>	7
<i>Lloyd's</i>	7
<i>Employment</i>	7
<i>Donations (Category 4)</i>	8
<i>Property</i>	8
<i>Shareholdings</i>	8
<i>Declaration</i>	9
<i>Changes required as a result of decisions of House or Committee, or of political developments</i>	9
<i>Procedure for Complaints</i>	10
Annex: Guide to the Rules relating to conduct of Members	11
Formal minutes	48

Dual Reporting and Revised Guide to the Rules

Introduction

1. Since 2002, the Committee on Standards and Privileges has undertaken to review the Guide to the Rules relating to the conduct of Members at least once in each Parliament. In our most recent Report on this, in August 2006, we sought Members' views on a consultation document, in which we canvassed various possible changes to the Guide.¹ It was our intention to make a further Report later that year. However, it became clear that the changes to the Rules necessary to end the requirement for Members to report donations to both the Electoral Commission and the Registrar of Members' Interests (RMI) were likely to be extensive. Rather than invite the House to approve two series of changes to the Guide within a relatively short period, we decided to combine all the changes into one revision. Following the satisfactory conclusion of discussions on creating the conditions necessary to end dual reporting, on which we report below, we are now able to present to the House our full set of proposals for amending the Guide.

2. In this Report, we set out first how we propose the House should create the conditions in which dual reporting can be ended. We then summarise the proposed changes to the Guide and explain their implications for Members. The Annex to the Report contains the full text of the revised Guide, with changes printed in red. We commend our proposals to the House.

Ending dual reporting

3. An unintended consequence of the Political Parties, Elections and Referendums Act 2000 (PPERA), was to require Members to register certain interests both with the Registrar of Members' Interests and with the newly formed Electoral Commission. This led to confusion and duplication, with Members facing criticism or sanctions for registering an interest with one body but not with the other. This in turn created pressure to streamline procedures, cutting out the duplication without prejudicing transparency. In response to that pressure, provision was included in section 59 of the Electoral Administration Act 2006² for donations to be reported to the Registrar of Members' Interests only. This provision could commence only once the Electoral Commission had signalled that it was satisfied that the House's arrangements would provide it with the information it required. A corresponding provision to align reporting requirements for loans is to be found at

¹ Sixteenth Report from the Committee on Standards and Privileges, Session 2005—06, *Review of The Guide to the Rules relating to the conduct of Members: Consultation Document*, HC 1580

² Hereafter referred to as 'section 59'.

paragraph 16 of schedule 7A of PPERA,³ which was inserted by the Electoral Administration Act.

4. In an interim Report published in July 2008, we set out the background to the proposal to end dual reporting and summarised the changes that would have to be made to the Rules in order to create the conditions necessary for commencement of section 59. We are pleased to report that, following constructive discussions between the House authorities, the Electoral Commission and the Ministry of Justice, we are now able to make firm proposals to end dual reporting, as originally envisaged when the House passed the Electoral Administration Act in 2006. The revised Guide to the Rules annexed to this Report includes provision for the reporting of permissible loans and credit arrangements made for political purposes, as well as for permissible donations.

5. Our expectation is that, once the House has approved the proposals, the Electoral Commission will inform the Justice Secretary that the conditions have been created for the commencement of section 59 and of schedule 7A(16) and the Justice Secretary will lay a commencement order before Parliament. We see no reason why dual reporting should not have ended by the end of June at the latest. From the commencement date onwards, Members will need to register with the Registrar of Members' Financial Interests all donations and loans that they previously reported to the Electoral Commission. The revised Guide as appended to this Report sets out what Members need to register or to record. The Registrar will continue to advise Members on their reporting obligations under the relevant Resolutions of the House, but advice on the permissibility requirements of the Political Parties, Elections and Referendums Act 2000 will continue to be provided by the Electoral Commission.

6. Although there will be a substantial increase in the information Members are required to place on the Register, this will be more than compensated for by the removal of the need for Members to report the same information to the Electoral Commission. We are confident that the new regime will lead to a significant reduction in the administrative burden on Members, without losing any of the rigour of the regulatory system. We intend to keep this under review, and we invite the Electoral Commission to do the same. It is vital for the health of our democracy that confidence in the registration and regulatory systems applying to Members of Parliament is maintained.

Members standing for elective office outside Parliament

7. We have considered carefully whether Members who stand for elective office outside Parliament should continue to be under an obligation to report donations both to the Commission and to the Registrar. The relevant offices include Member of a devolved administration, Mayor of London (or other directly elected Mayor) and local councillor.⁴ It is highly likely that a Member of Parliament standing for one of these offices will be

³ Hereafter referred to as 'schedule 7A(16)'

⁴ See PPERA Schedule 7, para 1(8)

opposed by a candidate or candidates who are not Members of Parliament. We accept entirely that no candidate in an election should gain an advantage from being subject to a lighter set of reporting requirements. We also recognise the strength of the argument that in order to achieve this level playing field, all candidates in an election should be subject to the same regulatory regime. Similar considerations apply when Members stand for certain senior party offices, some of which can involve candidates who are not Members of Parliament.

8. On the other hand, we have been concerned at the potential for confusion and error if an element of dual reporting were to be retained for the small number of Members who stand in such elections. This concern has been exacerbated as it became clear that the legislative means of exempting these contests from the provisions of section 59 would be complex, or would produce a state of affairs whereby Members standing in such elections would be significantly disadvantaged in relation to other candidates, by being subject to two sets of sanctions. The Electoral Commission has agreed that the burden of a continuing element of dual reporting for Members who stand for such elective office would be disproportionate.

9. It is important for Members to note, however, that when standing as a candidate in an election subject to the provisions of the Representation of the People Act 1983, they will continue to need to ensure that their election agent reports all relevant donations to the Returning Officer, as well as themselves registering the donations in the Register. This was always going to be the case and is a separate matter, not covered by section 59 of the Electoral Administration Act.

Changes necessary to the Rules in order to end dual reporting

Changes to the information that Members provide to the Registrar

10. In registration categories 4, 5, 6 and—to a limited extent—7, the provisions of the Political Parties, Elections and Referendums Act require more detailed information to be provided than has hitherto been required by the Registrar. Members must from the date of commencement of section 59 provide such detail in respect of the relevant categories, as set out in the draft revised Guide. The information will be published in the Register in its entirety, with the exception of the addresses of private individuals. These will be supplied separately to the Electoral Commission in order that the private individuals may be verified to be permissible donors, but neither the House nor the Commission will publish them.

Changes to thresholds and to time limits

11. Under PPERA, Members and other regulated donees must provide the Electoral Commission with detailed information in respect of all donations which exceed the threshold of £1000. The House uses the same threshold in respect of Category 4 (Donations) but a lower figure of 1% of a Member's salary for the other categories of overlap (5 to 7). In order to standardise reporting requirements and to reduce the scope for

confusion, the revised Guide requires the additional information to be provided to the Registrar in respect of all donations in categories subject to PPERA.

12. Members will be required to return their registration forms to the Registrar within one month of election rather than three months as at present. While at most times the Electoral Commission will extract the information to which it is entitled from the published Register, it needs that information, for publication, within a shorter timescale than the publication of the first Register of a Parliament allows. It will therefore be necessary for Commission staff to visit the office of the Registrar following a general election (and possibly at some other times) in order to extract from the returns the information they need. The Commission will have access to information which they would previously have received directly from Members; they will not have access to other information provided by Members. A memorandum of understanding between the House authorities and the Electoral Commission will be drawn up to govern this.

Other necessary changes

Political activity

13. The requirement under PPERA is to provide information on donations received in a Member's political capacity. The Register, on the other hand, refers to benefits related to membership of the House. It is necessary to amend the Rules to reflect the slightly different focus of the Commission in addition to the requirements of the House.

Permissibility of donations and loans

14. In respect only of the permissibility of donations and loans, Members remain subject to investigation and sanction by the Electoral Commission. Members are reminded of their responsibility to ensure that they do not accept impermissible donations and loans. Where a donation or loan over £200 is considered to be from an unidentifiable or impermissible source it should be returned and reported to the Electoral Commission. The Commission is available to provide advice on the legal requirements relating to permissibility.

Withdrawal of exemptions

15. A number of benefits which have so far been exempt from registration with the RMI will no longer be so. Visits paid for by the British Council, by the police, armed forces and National Council of Voluntary Associations Parliamentary schemes, and by the Industry and Parliament Trust will henceforth be registrable if they exceed the thresholds, as will benefits (such as car parking passes) available to all Members.

Loans

16. The only loans the House has hitherto required Members to register have been those where the Member receives a concessionary rate of interest and where the value of the concession exceeds 1% of the parliamentary salary annually. PPERA, as amended, regulates loans of money or credit facilities with a value over £200 that are provided to a Member with the intention that any part of the money will be used in connection with a Member's

political activity. Loans and credit facilities received for this purpose are subject to the same permissibility controls and reporting requirements as donations. Members will need to provide to the Registrar the required information in respect of such loans, and it is proposed that a separate category be established for this purpose. In the case of loans at a preferential rate it may be necessary to cross-reference to Category 5.

Other proposed changes to the Rules

Changes proposed in 2005-06

17. Many of the changes are minor and stylistic. The passive voice has where possible been replaced with the active ('Members must register' a benefit instead of 'a gift must be registered'). Archaic forms have been modernised ('save' becomes 'except', 'solicited' becomes 'invited', 'pecuniary' becomes 'financial'). Redundancies are removed—for example, as it is stated as a principle that benefits worth less than one per cent of a Member's Parliamentary salary are not registrable, that information does not have to be repeated under individual categories. Unlike the other changes covered in this note, such changes are not highlighted in the draft revised Guide.

Title of Register

18. In the 16th Report, it was suggested that the title of the Register should be changed to 'Register of Member's Financial Interests'.⁵ While the Parliamentary usage of the word 'interest' means financial interest, it is commonly used to mean a matter in which someone takes an interest, and it is felt that this discrepancy can cause confusion. We therefore recommend that the title of the Register be changed to 'Register of Member's Financial Interests'.

Transitional provisions and provisions of historical interest

19. Some transitional provisions or notes of purely historical interest are deleted.

Lloyd's

20. References to membership of Lloyd's have been relegated to footnotes.

Employment

21. The new Guide makes clear that occasional work as a consultant is to be registered under Category 2 (Employment) rather than Category 3 (Clients). This change reflects current practice.

⁵ Sixteenth Report, Session 2005—06, Appendix, paras 14 to 18

Donations (Category 4)

Party organisation

22. The Guide has been amended so as to reflect current reality in terms of party structure 'on the ground'. The revised Guide also clarifies the circumstances in which a donation is regarded as 'linked' to a Member and specific provision is made in respect of the registration of donations to candidates.

Political clubs and fund-raising events

23. Specific provision is made about support from political clubs and fund-raising events.

Funds related to political activity

24. Provision is made for the registration of funds set up to support Members in political, though not necessarily Parliamentary activity, for instance to assist in a legal action arising out of political activity.

Property

25. Amendments clarify the position in respect of registration of main and other homes.

Shareholdings

Category of registration

26. The revised Guide specifies that where a Member feels it appropriate to register a shareholding falling below the registrable threshold, this should be done in Category 11 (Miscellaneous).

Unquoted shares

27. At present, the Rules suggest that the nominal value of unquoted shares should be used for registration purposes. Under the revised Guide, Members should seek to estimate the value of such shares and register accordingly.

Collective investment vehicles, unit trusts and trusts

28. The Rules currently require the registration of holdings in companies etc which issue shares. Unit trusts do not issue shares, and holdings in these have been regarded as exempt from registration. In our 16th Report of 2005-06, we noted that an anomaly had arisen with the growth of new collective investment vehicles such as Investment Companies with Variable Capital (ICVCs), which closely resemble unit trusts but which do issue shares.⁶

⁶ For discussion of this, see the Sixteenth Report, Session 2005-06, Appendix, paras 34 to 42

29. We canvassed various possible changes to the Rules in our 16th Report. However, as we noted at the time, there were both advantages and disadvantages to each proposed solution. We have concluded, therefore, that the Rules should require Members simply to have regard to the fundamental purpose of registration, which is to give public notification on a continuous basis of those financial interests held by Members which might be thought to influence their Parliamentary conduct or actions. The revised Guide thus continues to note that holdings in publicly-available investment vehicles (including unit trusts, ICVCs and investment trusts) are not generally registrable. Members are, however, advised to have regard to the general principle of the Register and to consider registration in the case of sector-specific vehicles.

30. We have also considered it appropriate to revise the Guide so as to apply the same principle to unit trusts and to trusts.

31. A further change specifically exempts blind trusts from registration, and the special treatment hitherto given to overseas trusts is ended.

Pensions

32. It is clarified that pensions are not in themselves registrable but the revised Guide advises that identifiable holdings in a self-invested personal pension fund, if of registrable value, should be registered under Category 9 or 8 as appropriate.

Declaration

33. A reference to the obligation to declare relevant indirect interests is included and it is made clear that Members are not required to declare interests common to all Members.

Changes required as a result of decisions of House or Committee, or of political developments

Indirect donations

34. Following the Committee's Tenth Report of Session 2007-08,⁷ it is specified that donations in support of a Member are registrable whether they are given directly to the Member or made to the central party organisation accompanied by a wish that it should be used to support a particular individual or front-bench office.

Employment of family members

35. Following the Seventh Report of Session 2007-08,⁸ Members are required to register the name, relationship to them and standard job title of any staff member, paid for out of the

⁷ Tenth Report from the Committee on Standards and Privileges, Session 2007-08, *Conduct of Mr George Osborne*, HC 560

⁸ Seventh Report from the Committee on Standards and Privileges, Session 2007-08, *Employment of family members through the Staffing Allowance*, HC 436

